

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

United States

v.

Case No. 12-cr-31-01-SM


Michael Prieto

ORDER

Re: Document No. 65, Motion to Set Aside Verdict and for New Trial Pursuant to F.R.Cr.P. 33

Ruling: Denied. Defendant's motion to set aside the verdict and for new trial (doc. no. 65) is denied for the reasons given by the government in its opposition memorandum. Considering the evidence in the light most favorable to the verdict, it is plain that the jury could easily have found beyond a reasonable doubt that material misrepresentations were made as part of the scheme to defraud as alleged in the indictment. Banks and mortgage lenders were unquestionably induced to lend substantial amounts based upon fundamental and material misrepresentations regarding, among other things, the income and assets of straw borrowers hired by defendant to apply for the loans and regarding the nature of the property (for residential use by the straws), which loans would not have been extended had the truth been told. The indictment clearly charges fraud with respect to, inter alia, the various banks and other lenders in paragraph 2H, and there was no constructive amendment or variance. The scheme alleged and proven beyond a reasonable doubt was broad in scope and included inducing homeowners to deed over their homes without disclosing that what equity existed would be stripped out and held by defendant; inducing straws to apply for substantial loans based on false material statements of income, assets, and purpose; false statements that were deliberately and knowingly made by defendant (who completed the applications for the straw borrowers) while falsely assuring straws that they would bear no responsibility for repayment; and banks and lenders as noted. Defendant was tried on the charges fully spelled out in the indictment and his conviction precludes re-prosecution for the same scheme or artifice to defraud.

Date: March 10, 2014



Steven J. McAuliffe
United States District Judge

cc: Michael Iacopino, Esq.
Jaye Rancourt, Esq.
Mark Zuckerman, AUSA
US Marshal
US Probation